

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FAY S. GUNDLACH, §
§
Plaintiff, § C.A. NO.: 05-491
§
v. § TRIAL JURY DEMANDED
§
FOOD LION, L.L.C., a subsidiary of §
DELTAIZE AMERICA, §
§
Defendants. §

DEFENDANT'S INTERROGATORIES DIRECTED TO PLAINTIFF
INSTRUCTIONS.

In answering these interrogatories furnish all information, however obtained, including hearsay which is available to you, and information known by or in possession of yourself, your agents and your attorneys, or others subject to your control, or appearing in your records.

In answering these interrogatories, you must make a diligent search of your records and of other papers and materials in your possession or available to you or your representatives. If an interrogatory has subparts, answer each part separately and in full. If you cannot answer the interrogatories in full, so state an answer to the extent possible specifying your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information. Identify and describe all documents to which you refer in preparing your answers.

DEFINITIONS

The word "document" means any written, recorded, or graphic matter, whether produced, reproduced or stored on papers, cards, tapes, belts, or computer devices or any other medium in your possession, custody or control or known by you to exist and includes originals, all copies of originals, and all prior drafts.

The words "identify" or "identity" when used in reference to a natural person mean to state his

or her full name, present business and home address, present employer and position with employer, the relationship, business or otherwise, between such person and the person answering the interrogatory.

The words "identify" or "identity" when used in reference to a corporate entity or other organization or legal entity not a natural person, means to state its full name, the address of its principal place of business now and at the time in question, date of incorporation or judicial status and the type of entity or organization it is and nature of business or activities in which it is engaged or was engaged at the time in question.

INTERROGATORIES

1. State the names, last known addresses and telephone numbers of all persons who have direct knowledge of or were eyewitnesses to facts alleged in the Complaint, noting specifically the eyewitnesses.

ANSWER:

2. State the names, last known addresses and telephone numbers of all persons who arrived at the scene of the incident up to fifteen minutes after the incident. After each name list the number of the paragraph in the pleadings of which that person has knowledge.

ANSWER:

3. Give the names, last known addresses and telephone numbers of all persons other than those listed in the answers to interrogatories 1 and 2 who have knowledge of the facts concerning how the incident occurred.

ANSWER:

4. Give the names, last known addresses and telephone numbers of all persons who have knowledge of any facts alleged in the pleadings other than those persons given in the answers to interrogatories 1, 2, and 3.

ANSWER:

5. State the names, last known addresses and telephone numbers of all persons who have

been interviewed by you or on your behalf with regard to the facts alleged in the pleadings. In addition thereto, state:

- (a) The date of each interview;
- (b) The substance of each interview;
- (c) The names, last known addresses and telephone numbers of all persons who have copies of a resume or transcript of each interview.

ANSWER:

6. State the names, last known addresses and telephone numbers of all persons from whom the following types of statements have been obtained with regard to the facts alleged in the pleadings.

- (a) Written and signed;
- (b) Written but unsigned;
- (c) Oral;
- (d) Recorded interview.

In addition, specify the following as to each statement obtained:

- (a) The date of the statement;
- (b) The names, last known addresses and telephone numbers of the parties in custody of each statement or transcript of the statement;
- (c) The names, last known addresses and telephone numbers of the parties who obtained the statements;
- (d) Whether the statements were obtained on your behalf;
- (e) Whether the statements were obtained on the direction of or pursuant to the instructions of your attorney.

ANSWER:

7. With reference to any report, memorandum, or resume prepared by you or anyone acting on your behalf, but not necessarily limited to any investigator, insurance adjuster or other

person, pertaining to any of the facts alleged or referred to in the pleadings, give the date of each such matter in writing and as to each date given, state:

- (a) The name, address and telephone number of the person or persons who prepared such writing and the name, address and identity of the employer of such person or persons;
- (b) Whether such writing was prepared by you or on your behalf;
- (c) The number of pages of such writing.

ANSWER:

8. State whether subsequent to the time of the incident you or any person acting on your behalf has taken any photographs or motion pictures or made any sketches, plats or other drawings of any of the facts or items referred to in the Complaint. If yes, as to each such photograph, motion picture, sketch, plat or other drawing, state:

- (a) The nature of each such reproduction;
- (b) By whom the reproduction was taken or made;
- (c) When the reproduction was taken or made;
- (d) The subject matter portrayed;
- (e) Whether the reproduction was taken or made on your behalf;
- (f) Whether the reproduction was taken or made at your attorney's request;
- (g) The name, last known address and telephone number of the parties in custody of such reproduction.

ANSWER:

9. State the names, last known addresses and telephone numbers of all medical institutions to which you have been admitted or in which you have been treated for the alleged injuries described in the Complaint, together with the dates of admission to and discharge from such institutions.

ANSWER:

10. State the name, address and telephone number of your family physician.

ANSWER:

11. State the names, last known addresses and telephone numbers of all doctors or medical personnel who have examined or treated you for the injuries alleged in the Complaint, together with the following:

- (a) The dates of each such examination or treatment;
- (b) The nature of each such examination or treatment.

ANSWER:

12. State in detail the injuries, illnesses, complaints or diseases you claim to have sustained as a result of the incident upon which the Complaint is based. If claiming aggravation of pre-existing injuries, please state the following:

- (a) The names, last known addresses and telephone numbers of all doctors or medical personnel who have examined or treated you for the aggravation of pre-existing injuries which is claimed;
- (b) The names, last known addresses and telephone numbers of all medical institutions to which you have been admitted or in which you have been treated for the alleged aggravation to pre-existing injuries;
- (c) The nature of the aggravation of the preexisting injuries;
- (d) The dates of treatment for the alleged aggravation of pre-existing injuries;
- (e) The outcome of the treatment of the alleged aggravation of pre-existing injuries.

ANSWER:

13. If you have fully recovered from any of the injuries, illnesses, complaints, or diseases listed in the answer to the previous interrogatory, state when such recovery was made for each.

ANSWER:

14. If you have not recovered from the injuries, illnesses, complaints, or diseases sustained in the incident upon which this Complaint is based, state in what respect you have not fully recovered.

ANSWER:

15. If you claim to be permanently disabled in any respect, describe such permanent disability in detail and give the names, addresses and telephone numbers of persons who have knowledge of the fact that it is permanent.

ANSWER:

16. State whether or not as a result of the alleged injuries you have been confined to bed at home, and if so, please state:

- (a) For how long;
- (b) Why;
- (c) On what dates;
- (d) On whose orders.

ANSWER:

17. State whether or not you are still under the care of a physician, surgeon or other medical personnel, and if so, state the name, last known address and telephone number of each such person.

ANSWER:

18. State whether you or anyone on your behalf has received doctors' or hospital reports or records with regard to the injuries alleged in the Complaint. If yes, state the following:

- (a) The nature of each report or record;
- (b) At whose request they were prepared;
- (c) The dates when they were prepared;
- (d) The names, last known addresses and telephone numbers of the persons preparing them;
- (e) The names, last known addresses and telephone numbers of the persons

presently having custody of each.

ANSWER:

19. State whether you or anyone on your behalf has received any non-medical reports or records with regard to the incident alleged in the Complaint. If yes, state the following:

- (a) The nature of each report or record;
- (b) At whose request they were prepared;
- (c) The dates when they were prepared;
- (d) The names, last known addresses and telephone numbers of the persons preparing them;
- (e) The names, last known addresses and telephone numbers of the persons presently having custody of each.

ANSWER:

20. State whether or not x-rays, myelograms, electro-cardiogram, EMG's or other diagnostic tests were taken or performed in connection with any alleged injuries received. If so, state as to each:

- (a) What diagnostic test was taken;
- (b) When it was taken;
- (c) Where it was taken;
- (d) The names, last known addresses and telephone numbers of the persons by whom the tests were taken;
- (e) The names, last known addresses and telephone numbers of the persons in whose custody the results of the tests are now held.

ANSWER:

21. Please list all medicine purchased by you or used by you in connection with the treatment of injuries complained of in this action, specifying the cost thereof, the store from which purchased, the name of said medication, the prescription number, and the doctor who prescribed

same.

ANSWER:

22. Have you ever suffered any injuries in any accident, either prior or subsequent to the incident referred to in the Complaint? If so, state:

- (a) The date and place of such injury;
- (b) A detailed description of all injuries received;
- (c) The names, addresses and telephone numbers of any hospitals rendering treatment;
- (d) The names, addresses and telephone numbers of all physicians, surgeons, osteopaths, chiropractors or other medical practitioners rendering treatment;
- (e) The nature and extent of recovery and, if any permanent disability suffered, the nature and extent of the permanent injury;
- (f) If you were compensated in any manner for such injuries, state the names, addresses and telephone numbers of each and every person or organization paying such compensation and the amount thereof.

ANSWER:

23. Have you ever had any serious illness, sickness, disease or surgical operation either prior or subsequent to the incident referred to in the Complaint? If so, state:

- (a) The date and place of such injury;
- (b) A detailed description of all injuries received;
- (c) The names, addresses, and telephone numbers of all physicians, surgeons, osteopaths, chiropractors or other medical practitioners rendering treatment;
- (d) The approximate date of recovery;
- (e) If you did not recover fully, the date your condition became stationary and the description of your condition at that time.

ANSWER:

24. State whether you are willing to execute a written authorization to inspect the records of hospitals and doctors who have rendered any medical treatment as a result of the alleged incident. If the answer is yes, please execute the authorization attached to these interrogatories and return it with the answers to these interrogatories.

ANSWER:

25. State the names, addresses and qualifications of all expert witnesses who:

- (a) Have been consulted by you relative to this case;
- (b) Will testify in this case on your behalf.

ANSWER:

26. As to all expert witnesses identified in answer to Interrogatory 25(b) above, please state:

- (a) The subject matter on which the expert is expected to testify;
- (b) The substance of the facts and opinions as to which the expert is expected to testify and a summary of the grounds for each opinion.

ANSWER:

27. State specifically all expenses which have been incurred with regard to the treatment of the injuries alleged in the Complaint. In this regard, state specifically:

- (a) The name, last known address and telephone number of the company, firm, person or institution with whom the expense was incurred;
- (b) The date or dates such expenses were incurred;
- (c) The amount of each such expense incurred.

ANSWER:

28. State whether or not any Blue Cross and/or Blue Shield compensation or compensation under the Medical Payments or Family Compensation provision of any insurance contract or benefits under any Homeowner's insurance contract or Workmen's Compensation has been paid, or whether any insurance company issuing policy has denied coverage or whether any other

insurance has been received on account of the injury alleged in the Complaint or the expenses of treating said injury. Specify in detail, giving:

- (a) The name of the insurance company;
- (b) A description of each document evidencing such compensation or payment;
- (c) The present location of said document and name, last known address and telephone number of the person in whose custody it is lodged;
- (d) The amount of each payment of compensation or other receipt.

ANSWER:

29. State whether or not you or any person on your behalf has brought any claim against any other person or organization for the injuries for which this action is brought. If so, state:

- (a) The name, last known address and telephone number of each such person and/or organization;
- (b) The nature of the claim;
- (c) Identify the documents submitted in presenting the claim.

ANSWER:

30. State your social security number.

ANSWER:

31. State the day, month and year you were born.

ANSWER:

32. List each address at which you have resided since your age sixteen, and the dates during which you lived at each such address.

ANSWER:

33. Has plaintiff been in any accidents, including automobile accidents, prior or subsequent to the incident in question? If the answer is yes, as to each accident state:

- (a) The date and location of each accident;
- (b) The nature and extent of injuries to plaintiff;

- (c) A description of the events surrounding the accident including whether any citations were issued;
- (d) Whether any legal action arose as a result of the accident; and if so, state:
 1. The court, date and place where each suit was filed;
 2. The name, address and telephone number of each adverse party and his attorney, and the present status or result of each suit.

ANSWER:

34. State the name and address of each school, college or educational institution you have attended, listing the dates of attendance and the courses of study.

ANSWER:

35. Have you ever served in the armed forces or performed services for any branch of any governmental agency? If so, state:

- (a) The name of each such organization and the particular branch for whom you performed services;
- (b) The dates and place of such services;
- (c) Your serial or identification number;
- (d) A detailed description of the reason why the services were discontinued;
- (e) If discharged from military or government service for physical reasons, state the condition for which you were discharged and the agency so discharging you.

ANSWER:

36. Have you ever pleaded guilty to or been convicted of any crime other than traffic violations and if so, please state:

- (a) The nature of the offense;
- (b) The date;
- (c) The name and number of the court proceeding such as Justice of the Peace Court, Superior Court, etc.;

(d) The sentence given you.

ANSWER:

37. Have you ever entered or been committed to any institution, either public or private, for the treatment or observation of mental conditions, alcoholism, narcotic addiction, or disorders of any kind and if so, state:

- (a) The name and address of such institution;
- (b) The length of your stay and the dates thereof;
- (c) The purpose or reason for your entry to such institution;
- (d) The name and address of the doctor treating you for such condition.

ANSWER:

38. If you claim the right to recover any "out-of-pocket" expenses, including but not limited to medical expenses, itemize each such expense, and state:

- (a) A specific description of each such expense;
- (b) The date when it was incurred;
- (c) To whom it was incurred;
- (d) For what it was incurred.

ANSWER:

39. If you claim any loss of income or earning power as a result of the incident which is the subject of this litigation, either in the past, at present, or in the future, state:

- (a) The amount of income you claim to have lost as a result of the incident or the total dollar value of the lost earning power you claim to have lost as a result of the incident and identify specifically whether the claim is for loss of income or for loss of earning power;
- (b) The specific inclusive dates when you claim to have been wholly unable to work as a result of the incident and the reason why you were unable to work on such dates;
- (c) The specific inclusive dates when you were partially unable to work as a result of the incident and the reason why you were partially unable to work on such dates;

(d) A specific description of the type or types of work you would have been performing or would have been able to perform during the period stated in answer to the previous two sub-questions of this interrogatory and the reason you were unable to perform that work;

(e) The rate of income which you would have been able to receive except for the incident (as, for instance, \$1.00 per hour, \$50.00 per week, etc.);

(f) If you claim that you would have been employed during the periods of your disability, the name, address and telephone number of the person or organization which would have been your employer during the period of time when you claim to have lost income;

(g) If you claim loss of earning power instead of loss of earnings, the name, address and telephone number of the persons or organizations by whom you could have been employed during the period when you claim to have sustained a loss of earning power;

(h) If you claim that you would have been or could have been self-employed during the period of your disability, state the type of work in which you would have been or could have been involved and the amount of money you claim you would have earned during the period of your disability.

ANSWER:

40. If you are claiming loss of income or earning power furnish the following information concerning your total earnings during the five years preceding the incident:

- (a) The name, last known address and telephone number of each employer during that period;
- (b) The nature of job held with each employer;
- (c) The dates of employment with each employer;
- (d) The lowest salary or wage received and highest salary or wage received;
- (e) The total income from employment with each of the employers named;
- (f) The total income from employment in each of the five years.

ANSWER:

41. If you claim that the defendant violated any State statute not previously listed in the Complaint, designate the statute and the facts on which you base a claim that such statute was violated by the defendant.

ANSWER:

42. If you claim loss of consortium in this case, state:

- (a) The date on which you first married the spouse whose consortium you claim to have lost;
- (b) Whether you have ever been previously married, and if so, the names, last known addresses and telephone numbers of any further spouses;
- (c) The dates of any such marriages;
- (d) The length of time during which any such marriages subsisted;
- (e) If you have ever been divorced state:
 - 1. The name of the Court, State and County, date, and if known, the Court civil action number, of such divorce proceeding;
 - 2. Whether it was you or the spouse from whom you were divorced who initiated those proceedings and secured the divorce;
- (f) Whether any children were born to you by any prior marriage, and if so, the names and dates of birth of all such children;
- (g) Whether any children have been born of your present marriage, and if so, the names and dates of birth of all such children.

ANSWER:

43. (a) Did you consume any alcoholic beverage of any type during the 48-hour period preceding the occurrence of the incident? If so, specify the nature and amount of such alcoholic beverages, the time over which and place at which consumed, and give the names, last known addresses and telephone numbers of all persons with whom you were drinking;

(b) Did you consume any sedatives, tranquilizers or other drugs and/or medicines

during the 72-hour period immediately preceding the happening of the incident herein complained of? If so, identify the nature and type of such medication, when taken, the amount taken, and if prescribed by a physician, his name, address and telephone number.

ANSWER:

44. If you were, or had been previously suffering from any physical or other disability affecting your ability to walk, specify the extent and duration of such disability and outline all of the treatments received, if any, together with the dates thereof.

ANSWER:

45. Please identify each separate defect which you contend was present in or about the floor where you fell.

ANSWER:

46. For each defect described in the immediately preceding interrogatory, please state the individual who has first-hand knowledge of the defect and give their name, address and phone number.

ANSWER:

47. If you contend that there was no defect in the floor but rather that there was a foreign object of some type on the floor, please identify specifically the type of foreign object upon which you slipped, tripped, or which caused you to fall.

ANSWER:

48. If you contend that there was a foreign object on the floor in answer to the immediately preceding interrogatory, please identify the length of time which you contend the foreign object remained on the floor prior to the time of your fall.

ANSWER:

49. State specifically the manner in which you claim the defendant was negligent as alleged in this Complaint.

ANSWER:

50. As to each condition, or defect, which you contend caused the incident, state:

- (a) A description of the condition which made the premises dangerous;
- (b) Each fact which indicates the length of time the condition had existed prior to the incident;
- (c) Each fact which tends to show that the defendant knew, or should have known, of the condition;
- (d) Each act which the defendant failed to perform to make the premises reasonably safe for use;
- (e) Whether you knew of the condition before the incident, and, if so:
 - (i) The manner in which you acquired such knowledge;
 - (ii) The time you acquired such knowledge;
 - (iii) Any act performed by you to avoid the incident after you acquired such knowledge.

ANSWER:

51. Describe the shoes you were wearing at the time of the incident.

ANSWER:

52. Have you ever had repairs or alterations made to the shoes?

ANSWER:

53. Describe the clothing you were wearing at the time of the incident.

ANSWER:

54. Were you carrying anything at the time of the incident? If so, for each such item, state:

- (a) A description of it;
- (b) The size of it, including its shape, length, breadth, depth and weight;
- (c) Whether your vision was in any way obstructed by such item, and if so, the extent of the obstruction.

ANSWER:

55. Was an inspection made of the incident scene by you, or anyone on your behalf, subsequent to the incident?

ANSWER:

56. If so, for each inspection, state:

- (a) The date it was made;
- (b) The name, address, telephone number and occupation of the person who made it;
- (c) The substance of any oral report.

ANSWER:

57. If a written report was made, state the name, address and telephone number of the person who has custody or control of it.

ANSWER:

58. Were you ever warned or made aware of the alleged dangerous condition prior to the incident? If so, state:

- (a) The day and time of the day you were so warned or made aware;
- (b) The name and address of the person who warned you;
- (c) How you were warned or made aware;
- (d) What was said;
- (e) What your response was to the warning.

ANSWER:

59. If not warned, when did you first become aware of the alleged dangerous condition in relation to the time of the incident?

ANSWER:

60. Identify the specific location where you alleged to have fallen.

ANSWER:

61. State the time and the day that the alleged fall occurred.

ANSWER:

62. As to the lighting conditions existing in or at the location of the alleged fall, state the lighting conditions:

- (a) As to natural light;
- (b) As to artificial illumination.

ANSWER:

63. Describe in detail all activities performed by you in the 15 minutes preceding the fall alleged in the Complaint.

ANSWER:

64. Did you trip over a pallet on the floor at the Food Lion store in question?

ANSWER:

65. Did you see the pallet over which you tripped before you tipped?

ANSWER:

66. Did the answers to each and every one of the interrogatories propounded herein include not only the information known to you or your attorney, but also the information within the possession or control of yourself or your attorney?

ANSWER:

BAILEY & ASSOCIATES, P.A.

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